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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/072,531 | 02/08/2002 | Kevin Gage | 3464-031 | 3398 |

22440 7590 08/21/2006

GÖTTLIEB RACKMAN & REISMAN PC
270 MADISON AVENUE
8TH FLOOR
NEW YORK, NY 100160601

EXAMINER

BILGRAMI, ASGHAR H

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 2143 | |

DATE MAILED: 08/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/072,531

Applicant(s)

GAGE, KEVIN

Examiner

Asghar Bilgrami

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,6-8,11,14-18 and 25-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,6-8,11,14-18 and 25-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 August 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

SUPPLIMENTAL DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/13/2006 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 6-8, 11, 14-18 & 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inoue et al (U.S. 6,580,462) and Kostreski et al (U.S. 5,635,979).

4. As per claims 1, 11, 17, 18 & 28 Inoue disclosed an apparatus for generating an audio output in a format that can be played by a digital audio player comprising: a network input port adapted to receive a multimedia program from the network (col.4, lines 46-58); a data storage adapted to store said multimedia program (col.2, lines 23-49 & col.10, lines 31-39); a controller adapted to receive selections from a customer and to generate commands responsive to said

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selections (col.10, lines 40-49); an extractor responsive to said commands and adapted to extract from said multimedia program an audio signal in a first format ; a processor processing said audio signal to generate a digital signal in a second format that is playable by a digital audio player (col.2, lines 56-67, col.2, lines 32-49 & col.8, lines 13-24); and a memory for storing said digital signal as audio file playable by said audio player (col.2, lines 40-49). However Inoue does not explicitly show that the network is a broadband network. In the same field of endeavor Kostreski discloses the network is a broadband network (col.3, lines 66-67 & col.4, lines 1-10). At the time the invention was made it would have been obvious to one in the ordinary skill in the art to incorporate broadband network capability as taught by Kostreski in the apparatus for processing multimedia programs as taught by Inoue in order to make the multimedia system more versatile with added broadband network capability to provide multimedia to users.

5. As per claim 6 Inoue-Kostreski disclosed the apparatus of claim 1 wherein said separator is adapted to generate output signals including a multichannel audio signal (Inoue, col.8, lines 45-60).

6. As per claims 7, 14, 25 & 27 Inoue-Kostreski disclosed the apparatus of claim 1 wherein audio signal is a multichannel audio signal; and wherein said processor includes a folder circuit adapted to fold said multichannel audio signal, and an encoder adapted to encode the folded audio signal using a standard compression protocol (Inoue, col.7, lines 36-44 & col.8, lines 45-60).

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7. As per claim 8 Inoue-Kostreski disclosed the apparatus of claim 7 wherein said audio output stage further includes a compressor that compressor said stereo channel audio signal into a compressed digital output signal (Inoue, col.15, lines 18-39).

8. As per claim 15 Inoue-Kostreski disclosed the apparatus of claim 14 wherein said encoder is adapted to encoded said folded audio signal using an MPEG protocol (Inoue, col.7, lines 61-67 & col.8, lines 45-53).

9. As per claim 16 & 26 Inoue-Kostreski disclosed the apparatus of claim 14 wherein said encoder is adapted to encode said folded audio signal using an ATRAC protocol (Inoue, col.15, lines 18-39).

Response to Arguments

10. Applicant should submit an argument under the heading "Remarks" pointing out disagreements with the examiner's contentions. Applicant must also discuss the references applied against the claims, explaining how the claims avoid the references or distinguish from them.

11. The remarks/arguments section of Application No: 10/072,531 mentions Liu as the prior art in rejecting the claimed invention whereas the examiner used Inoue & Kostreski as prior art references. The remarks/arguments seem to be related to a different application. Therefore they are non-responsive in the case of this application.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Asghar Bilgrami whose telephone number is 571-272-3907. The examiner can normally be reached on M-F, 8:00-5:00PM.

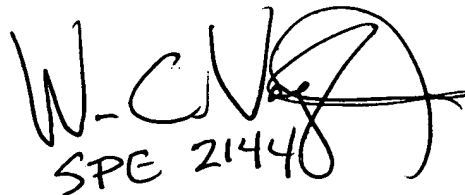
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



AB

Asghar Bilgrami
Examiner
Art Unit 2143



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SPE 21440